

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ALVIN DEAN BRUTON, SR.

Plaintiff,

v.

CIV 11-0330 WJ/KBM

UNITED STATES OF AMERICA, *et al.*,

Defendants.

**ORDER PROVIDING REQUESTED CLARIFICATION**

THIS MATTER is before the Court on the United States' request for clarification and the Court notes as follows:

- the United States is correct that the citation to "Doc. 35" was a typographical error, and the substance of what the Court was discussing appears in Doc. 34;
- the Court overruled Plaintiff's request for jury trial and, since the United States has now made its position clear, *see Doc. 44* at 2-3, no further response is necessary at this time; in the event the subject of a jury trial arises in the future, the United States' position will be considered;
- as to the remaining portion of the Motion (*Doc. 34*), the United States' understanding of the substance of Plaintiff's allegations is in accord with the Court's, that is, a claim brought pursuant to the Federal Tort Claims Act for medical malpractice in association with the administration of medical treatment by the Albuquerque Veteran Administration Hospital resulting in the Plaintiff suffering seizures;
- the previously-set briefing schedule was to permit the Government to file any dispositive motions given the new allegations and those of the Complaint; and
- if the Government does not intend to file any such early dispositive motions, it should file a request to proceed to discovery rather than file a brief no later than June 29, 2012.

**IT IS SO ORDERED.**



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CHIEF UNITED STATES MAGISTRATE JUDGE